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Applicant : FLOCKHART et al.  
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Customer No. : 48500  
Title: : "ROUTING BASED ON THE CONTENTS OF A SHOPPING CART"

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**APPELLANT'S REPLY BRIEF ON APPEAL (37 CFR § 1.192)**

Dear Sir:

Applicant submits this Reply Brief (in triplicate) in response to the Examiner's Answer mailed July 3, 2006, in connection with the appeal under 37 CFR§1.191 to the Board of Patent Appeals and Interferences of the United States Patent and Trademark Office from the final rejection of claims 44, 45, and 47-84 of the above-identified patent application. Although Appellant believes that no fees are associated with this appeal, please charge any such fees to Deposit Account No. 50-1602. The structure of the Brief is as follows in accordance with 37 CFR §1.192(c):

- I. Status of Claims
- II. Grounds of Rejection to be Reviewed on Appeal
- III. Arguments - Rejections under 35 U.S.C. Section 103

I. STATUS OF CLAIMS (37 CFR §1.192(c)(1))

The status of the claims is as follows:

1. Claims canceled: 1-43 and 46.
2. Claims withdrawn from consideration but not cancelled: None;
3. Claims pending: 44, 45, and 47-84;
4. Claims allowed: None;
5. Claims rejected: 44, 45, and 47-84; and
6. Claims appealed: 44, 45, and 47-84 as set forth in Appendix A.

II. GROUND OF REJECTION TO BE REVIEWED ON APPEAL (37 CFR §1.192(c)(4))

A. Whether Claims 44-45 and 47-84 are unpatentable over Miloslavsky et al. (U.S. 6,597,685) combined with Walker (U.S. 6,088,444)?

III. ARGUMENTS - REJECTIONS UNDER 35 U.S.C. SECTION 103

A. The Language in the Independent Claims that Is in Issue - Claims 44-45 and 47-84.

In response to the Examiner's Answer, it is important to clarify what language in each of the pending independent claims is in issue. The language at issue is italicized below for the convenience of the Board. Any language that is not italicized is taught by Miloslavsky, et al., or other prior art references, and is therefore not at issue in this appeal.

44. A method, comprising:

(a) providing, on a first communication channel and as part of a first contact with a customer, the first contact being a potential sales transaction with the customer, at least one web page to a web browser associated with the customer, wherein the customer

selects, for possible purchase, a set of one or more items from the provided at least one web page;

(b) receiving, from the customer and as part of the same sales transaction, a request for servicing by an agent of the contact center, wherein the servicing is to be effected by a second contact with the customer on a second communication channel different from the first communication channel;

(c) *downloading, onto a computer executing the customer's web browser, an applet;*

(d) *evaluating at least one item in the set of one or more items to identify at least one of (i) an item value and (ii) item type in the set, wherein step(d) is performed by the applet when the applet is being executed by the customer's computer; and*

(e) routing the request of the customer to an agent in the contact center, *the agent being selected based, at least in part, on the identified at least one of (i) item value and (ii) item type, wherein the set of one or more items is a shopping cart, wish cart, and/or wish list.*

58. A system, comprising:

a server operable (a) to provide, on a first communication channel and as part of a first contact and a potential sales transaction with a customer, at least one web page to a web browser associated with the customer, wherein the customer selects, for possible acquisition, a set of one or more items from the provided at least one web page; and (b) receive, from the customer and as part of the same sales transaction, a request for servicing by an agent of the contact center, wherein the servicing is to be effected by a second contact with the customer on a second communication channel different from the first communication channel;

*an evaluator operable to evaluate at least one item in the set of one or more items to identify at least one of (i) an item value and (ii) item type in the set; and*

*a router operable to route the request of the customer to an agent in the contact center, the agent being selected based, at least in part, on the identified at least one of (i) item value and (ii) item type, wherein the server is operable (c) to effect downloading, onto a computer executing the customer's web browser, an applet and wherein the applet comprises the evaluator.*

71. A method for routing contacts in an E-commerce contact center, comprising:

(a) providing, on a first communication channel and as part of a potential sales transaction with a customer, at least one web page to a web browser associated with the customer, wherein the customer selects, for possible purchase, a set of one or more items from the provided at least one web page;

(b) receiving, from the customer and as part of the same sales transaction, a request for servicing by an agent of the contact center, wherein the servicing is to be effected on a second communication channel different from the first communication channel;

- (c) downloading, onto a computer executing the customer's web browser, an applet comprising an evaluator;
- (d) the downloaded evaluator evaluating at least one item in the set of one or more items to identify at least one of (i) a value of one or more items and (ii) a type of one or more items in the set;
- (e) receiving from the downloaded evaluator an identified at least one of (i) a value of one or more items and (ii) a type of one or more items in the set;
- (f) routing the request of the customer to an agent in the contact center, the agent being selected based, at least in part, on the identified at least one of (i) a value of one or more items and (ii) a type of one or more items in the set.

B. Miloslavsky, et al., Does Not Teach or Suggest the Use of Customer Selections in a Displayed Web Page in Routing the Servicing Request of the Customer to an Agent - Claims 44-45 and 47-84.

1. Miloslavsky, et al., Does Not Teach the Analysis of the Set of Customer Selected Items for Purchase Prior to Selecting an Agent to Service a Telephone Service Request Let Alone the Use of Any Such Analysis in Agent Selection - Claims 44-45 and 47-84.

Regarding the web-based interaction with the customer, Miloslavsky, et al., states in relevant part:

Each web page has an address in a recognized format--the URL, or Uniform Resource Locator--that enables computers all over the world to access it. Browser 1116 sends a request to the URL of a web page in server 1132.

. . .

As a result, it is possible to design a system for the user in customer site 104 to place orders through the web page. *For example, the user can click on an icon on a web page to order a product associated with the icon. Server 1132 receives and processes the order.* This is one of the methods for carrying out electronic commercial transactions.

. . .

When the user in customer site 104 is reviewing information on browser 1116 or is about to place an order, the user may request the attention of a service agent in service assistance center 1140. For example, the user may want to ask additional information or provide confidential information (such as a credit card number) orally to the service agent. It is desirable for the service agent to display on his/her computer 1146 the same web page displayed on browser 1116 while interaction with the user through telephone. It is also desirable for the service agent to obtain as much information about customer site 1104 as possible prior to commencing telephone communication with the user.

. . . .

As an example, when the telephone communication is established, the web page displayed by browser 116 is automatically displayed on computer 1146 together with information about customer site 1104. As a result, the service agent may anticipate the user's needs and immediately provides desired services to the user.

. . . .

When button 1118 is clicked, browser 1116 sends a telephone service request to "phone.html" in server 1132. Server 1132 then sends the request and associated data (e.g., the identity of customer site 104 *and the HTML document associated with the web page displayed on browser 1116*) to a service request process (SRP) 1168. SRP 1168 is a software module which could run on server 1132 or on a separate data processing device. SRP 1168 selects an available service agent in accordance with predetermined criteria (e.g., availability of agents, previous interaction between a certain agent and customer site 1104). Assuming that the service agent associated with computer 1146 is selected, the HTML document *previously sent* to customer site 1104 is delivered to computer 1146. Computer 1146 contains a browser and can display the HTML document. As a result, the service agent who will interact with the user in customer site 1104 is able to see the same web page the user is seeing. As explained below, other information about customer site 1104 can also be sent to computer 1146. This information is accessible by the service agent.

. . . .

As explained above, information on the service agents (such as language skill, knowledge of products, etc.) could be used by SRP 1168 as some of the factors in selecting an appropriate service agent to interact with a particular user.

(Col. 11, line 54, to col.13, line 16 (emphasis supplied).)

SRP 1168 can then send the digital data (e.g., the HTML document displayed on the user's computer) to the selected agent. As a result, an agent in service assistance center 1140 is able to talk with a user in customer site 104 while reviewing the web page displayed on browser 1116 in customer site 1104.

(Col. 16, lines 36-41.)

Contrary to the Examiner's assertion that Miloslavsky, et al., teaches clearly the use of product type in a customer order in selecting an agent to service the telephone service request, Miloslavsky, et al., clearly teaches that the web browser 1116 of the customer sends only the

telephone service request to the server 1132. It does *not* send the web page currently displayed on the customer's computer *as currently altered by the customer*. At col. 12, line 64-col. 13, line 15, it is clear that the contact center's web server 1132 forwards the request and the HTML document associated with the web page displayed on the browser 1116 to the SRP 1168. The server 1132 knows the web page because it has maintained a log of URLs sent to the browser 1116. It thus retrieves the web page, or HTML document, for transmittal to the SRP 1168. It does this to avoid the substantial bandwidth that would be required for the browser 1116 to send the currently displayed web page, as altered by the customer, to the server 1132. *Thus, the SRP 1168 is unable to analyze any customer selections for possible purchase because the customer's selections, if any, are not available to the SRP for analysis.*

While Miloslavsky, et al., is clear that the SRP 1168 considers "availability of agents" (col. 13, lines 6-7), "previous interaction between a certain agent and customer site 1104" (col. 13, lines 6-7), and "language skill" (col. 13, line 46) in agent selection, the reference of Miloslavsky, et al., to "knowledge of products" at col. 13, line 46, is vague about what other specific information is analyzed in selecting an agent to service the telephone service request. "Knowledge of products" can refer, for example, to the product types historically ordered by the customer, product types referenced in the URL's previously delivered to the customer's web browser in prior sessions, product types referenced in the URL's delivered to the customer's web browser in the current session, or the URL of the web page being viewed by the customer when the telephone service request is received by the web server.

An argument by the Examiner that the selection of a web page by a customer in Miloslavsky, et al., is tantamount to selecting an item on a displayed web page for possible purchase ignores the clear language of the claims. If the agent selection were to be based on a URL, the URL may or may not include items *selectable* by the customer for possible purchase but would definitely *not* include products specifically *selected* by the customer for possible purchase, as required by the independent claims. The URL could, for example, identify a web page, such as a home page, that does not even offer the customer the option of placing an order for a product. Web pages having items *selectable* by the customer typically include multiple products of different types and prices, most of which are not of interest to the customer. Any analysis of such a web page would necessarily *not* take into account any specific items *selected* by the customer for purchase because the customer by simply requesting a web page has not *positively* selected an item on the displayed web page for possible purchase.

2. Miloslavsky, et al., Fails to Teach a Set of Dedicated Data Structures, Such as a Shopping Cart, Wish Cart, and/or Wish List, for a Customer Order and Teaches Away from the Use of an Applet to Analyze such an Order - Claims 44-45 and 47-84.

Even if one could construe the act of simply requesting a web page as being a positive selection of an item on the web page for possible purchase by the customer, Miloslavsky, et al., clearly does *not* teach the use of a dedicated data structure, such as a shopping cart, wish cart, and/or wish list, for customer purchase selections, as required by independent claim 1 and dependent claims 60 and 73. Miloslavsky, et al., says *nothing* about the creation for the customer, as part of the current session, a dedicated set of data structures, such as a shopping cart, wish cart, and/or wish list, for purchase by the customer let alone analyzing such this set of data

structures as part of agent selection. Rather, Miloslavsky, et al., teaches that the customer's order is limited to only the items on a single displayed web page. (See, e.g., col. 12, lines 2-8.)

Even if Miloslavsky, et al., were to teach the creation of a dedicated set of data structures for the customer's order, it *teaches away* from analysis of the order as part of agent selection by requiring the contact center's web server to retrieve itself the web page *in the form sent* to the web browser to avoid the high bandwidth consumption needed to send the web page *as altered by the customer* from the browser to the server. As discussed below, it is far from obvious to one of ordinary skill in the art, based on Miloslavsky, et al., to use an applet on the customer's computer to analyze the customer's order prior to agent selection.

3. Miloslavsky, et al., Does Not Teach the Routing of a Telephone Service Request to an Agent After a Customer Has Positively Selected One or More Items for Purchase - Claims 44-45 and 47-84.

In Miloslavsky, et al., the customer has not placed an order *prior to* clicking on the button 1118 to place a telephone service request. Miloslavsky, et al., states that "the user can click on an icon on a web page to order a product associated with the icon" and that the server 1132 then receives and processes the order. (Col. 12, lines 4-8.) Miloslavsky, et al., further teaches that the user can, from the same page, click on button 1118 to generate a telephone service request. Miloslavsky, et al., thus teaches that the customer, from the same displayed web page, has the option of *either* (i) clicking on an icon to order a product or (ii) clicking on an icon for a telephone service request. It necessarily follows that the user in Miloslavsky, et al., must click on the button 1118 *before* the customer clicks on the icon and places the order. Thus, even if the web page as altered by the customer were to be forwarded to the contact center server the SRP



1168 is still unable to analyze a customer selected set of items because the customer has not yet selected an item to be ordered.

4. Miloslavsky, et al., Teaches the Forwarding of the Displayed Web Page or Its URL to the Web Server Not for Analysis of Its Contents But for Display to the Agent so that the Agent and Customer Can View the Same Page When Servicing the Customer - Claims 44-45 and 47-84.

Miloslavsky, et al., specifically teaches that the web page currently being displayed to the customer is identified for the agent's web browser on his computer 1146 "to display . . . the same web page displayed on [the customer's] browser 1116 while interaction [sic] with the user through telephone." (Col. 12, lines 15-18.) Contrary to the Examiner's assertion, Miloslavsky, et al, does not forward the displayed web page to the SRP 1168 for analysis before agent selection but rather to forward to the selected agent. (Col. 13, lines 7-10; col. 15, lines 21-24, lines 27-30, and lines 54-59; and col. 16, lines 36-41.)

5. The Customer Site Information Forwarded to the SRP 1168 Does Not Contain Product Type or Value Information - Claims 44-45 and 47-84.

Miloslavsky, et al., states that the server 1132 of the contact center sends, along with the HTML document being displayed to the customer, "data identifying customer site 1104". (Col. 15, lines 19-21.) The data identifying customer site 1104 is used in agent selection. The data identifying customer site 1104 does not, however, include information on product type or value selectable from the displayed web page or previously selected by the customer. Data identifying customer site 1104 refers only to the name or Internet address of customer site 1104 (col. 15, line 62.)

6. The Reference at Col. 38, Lines 20-35, of Miloslavsky, et al., to the Use of Product Expertise in Agent Selection Is in the Context of a Completely Different Architecture than that Used for Web-Based Interactions - Claims 44-45 and 47-84.

Notwithstanding the foregoing, the Examiner relies on col. 38, lines 20-35, for the proposition that the telephone service requests received from customers “are routed to the support person based on the product expertise of the support person.”

The Examiner’s reliance on this language is misplaced.

This passage is used with reference to a system for routing emails, which is described at col. 35, line 65, to col. 39, line 22. In this passage, Miloslavsky, et al., states in relevant part:

FIG. 21 is a block diagram showing an e-mail processing center 6100 of the present invention. Processing center 6100 contains an e-mail server 6102 which is connected to a data network 6104.

As an example, it is assumed that one of the addresses associated with e-mail server 6102 is "support@abc-company.com". This is an address for customers of a company named "ABC" to send in questions regarding products and services provided by the company. It is anticipated that the subject matters of the e-mails are diverse and the number of mails is large. For example, the e-mails may relate to all aspects of the products and services offered by ABC. Some of the e-mails may contain technical questions of a product. Other e-mails may report a bug in a software sold by ABC. A few e-mails may contain suggestions on improving the products and services. If support persons of ABC are assigned to answer some of the e-mails on a first come first serve basis, it would be very difficult for them to do so because it is almost impossible for a single person to know everything about ABC.

One aspect of the present invention is a system for automatically routing the e-mails to the most qualified and available support person. For example, a support person may be an expert in one product of ABC. All e-mails related to this product will be routed to this person automatically.

FIG. 22 is a block diagram of e-mail-to-CTI-server adapter 6110. It includes an information extractor 6204 for extracting relevant information from e-mails. Extractor 6204 contains a parser 6206 for parsing the content of the e-mails obtained from e-mail

server 6102. Extractor 6204 also contains a storage device for storing an algorithm 6208 which directs parser 6206 to extract appropriate information from the content of the e-mails in accordance with predetermined criteria. . . . Examples of relevant information are: (a) *Addresses: Typically, an e-mail has a portion that contains the addresses of the sender and recipient.* Extractor 6204 directs parser 6206 to extract these e-mail addresses. (b) *Time Stamp: Some e-mail contains the date and time an e-mail is sent.* Extractor 6204 could direct parser 6206 to extract this information. . . . (c) *Keyword: Extractor may direct parser to conduct a keyword search on the content of the e-mails. Example of keywords are name of relevant products and services provided by the company, special words such as "bugs", "virus", "crash" (for software products), "overheat" and "electric shock" (for hardware products), and words of urgent nature (such as "urgent", "ASAP", and "fast").*

Returning now to router 6116, some examples of support person selection criteria are: (a) *the product expertise of the support person*; (b) *language ability of the support person*; (c) *activities the support person (e.g. ,how many e-mails have this person processed and how many are pending)*; (d) *work load of other support persons in the center (for load balance among various support persons)*; (e) *the language of the incoming e-mail*; (f) *the subject matter of the incoming e-mail*; (g) *information about the sender*; (h) *overall activities of the center (e.g. whether the support persons need to process jobs other than e-mails)*; and (i) *the urgency of the matter.*

(Emphasis supplied.)

As can be seen from the above language, the architecture is for routing emails and not for routing telephone service requests received as part of a web-based interaction. No electronic order or other type of customer purchase selection is analyzed. The “product expertise of the support person” is used in the context of the email destination address and keyword information gathered by the extractor from the email. Because this architecture is drastically different from the claimed web-based architecture and because product expertise as it relates to agent selection is used in a completely unrelated application, it would not be obvious based on the email-routing architecture to modify the web-based architecture of Miloslavsky, et al., to analyze electronic orders for product type.

- C. There Is No Motivation to Combine Miloslavsky, et al., Because They Are Directed to Different Architectures and, Even If There Were a Motivation to Combine Them, the Modification to the Miloslavsky, et al., Would Require the Pre-Agent Selection Analysis to Be Performed After the Voice Call Was Set Up with the Customer - Claims 44-45 and 47-84.

The Examiner concedes that Miloslavsky, et al., does not teach use of item value in agent selection and relies on Walker, et al., for this teaching. The use of Hem value in agent selection is required by dependent claims 47-48, 50-51, 53-56, 61-62, 64-65, 67-70, 78, and 80-83.

Walker et al. is directed to a priority call queuing system that allows the called site to exercise control over the position in a phone queue of an incoming call based on the economic value assigned to the incoming call. The system includes a PBX 10, an ACD 12, and an IVRU 14. (Col. 3, lines 15-19.) A data storage device 58 includes a call distribution procedure 60 that enables handling of queue 56 and other functions performed by the ACD 12. Data storage device 58 further includes a call database 62, a product order database 64, and a value database 66. Call database 62 includes a listing of the calling phone number, a call tracking number assigned by the ACD 12, the position of the call within the call queue, a time received value, and one or more product order number(s) derived from the interaction of the customer and IVRU 14. The product order database 64 includes, for each call, the call tracking number, the quantity of items ordered, the item numbers of the items ordered, the item price and description, and a catalog number for each ordered item. The value database 66 includes, for each call, the call tracking number, a product order number, the quantity of items ordered, an assigned economic value as calculated by the ACD 12, and a resultant queue position assigned by the ACD 12. (Col. 4, line 45, to col. 5, line 13.)

When the incoming call is received, the call is assigned an initial call queue position (col. 5, lines 36-40), and the IVRU 14 interrogates the caller and determines information such as identity of the caller, quantity of items to be ordered, item numbers, catalog numbers, and other data from which an economic value of the call can be determined (col. 2, lines 52-57). The caller's responses to the queries are preferably caller-entered DTMF signals that are converted into data values by IVRU 14. (Col. 3, lines 38-40.) The economic value of a call can be based upon a total number of items ordered, a total dollar amount of the order and/or the profitability of the order and the status of the customer. (Col. 3, line 64-col. 4, line 8.) Thereafter, the call information is used, in conjunction with pricing and other economic data, present in a database at the called site, to assign an economic value to the call. (Col. 3, lines 46-48.) The call's position in the queue is then adjusted in a manner that is hidden from the caller, in accordance with the determined economic value. The rank positions of other calls within the queue are adjusted accordingly. (Col. 3, lines 48-63.)

There is no incentive or motivation to combine the web-based architecture of Miloslavsky, et al., with the non-web-based call center of Walker, et al. First, Walker, et al., teaches collection of order information *after* the voice call with the call center is initiated. Miloslavsky, et al., teaches agent selection *before* the voice call is initiated. Second, modifying Miloslavsky, et al., to include pre-agent selection analysis of an electronic order is contrary to the teachings of Miloslavsky, et al. Miloslavsky, et al., teaches *not* transmitting customer alterations to a displayed web page, such as customer order selections, to the web server because the transmission of this information would use too much bandwidth. Rather, the URL of the displayed web page is used to retrieve the unaltered web page previously sent to the customer's

web browser so that the unaltered page may be viewed by the agent. Modifying Miloslavsky, et al., to include the analysis of any customer web page alterations would frustrate the desire of Miloslavsky, et al., to conserve bandwidth.

Even if it were obvious to combine Miloslavsky, et al., and Walker, et al., the modified architecture would not be the claimed invention. Rather, the combined architecture would perform order analysis *after* the voice call were initiated and would connect an IVRU with the customer to gather the customer's selected items for purchase. The web page as altered by the customer would not be analyzed.

Walker, et al., does not teach the use of product type in routing the call to an agent. Walker et al. teaches the use of economic value based on order information in routing the call. The economic value for a call is based "on the total dollar amount of the order, the value of the customer, and may also include the origin of the calling phone number." (Col. 5, lines 56-59.) Walker et al. does not teach the use of item type in determining the economic value for a call.

D. The Examiner's Official Notice of Applets, Even if Obvious to Combine with Miloslavsky, et al., Would Not Produce the Claimed Invention - Claims 44-45 and 47-84.

As conceded by the Examiner at page 4 of the April 26, 2005, Final Office Action, neither Walker et al. nor Miloslavsky et al. teach or suggest downloading of the evaluator onto the customer's computer so that the evaluator can examine on the customer's computer the type and/or value of the items in the set of items selected by the customer.

At page 7 of the Examiner's Answer, the Examiner states:

With respect to the official notice taken by the Examiner that downloading the evaluator, an applet onto the customer's computer is old and well known in order to ease the evaluation process. It would have been obvious to one having ordinary skill in the art at the time of the Miloslavsky's invention to have used an applet for accessing and computing the order since this is well known in the art for on-line customer orders. It also would have been obvious to have compared the value to a predetermined value to determine the destination step since a threshold would be necessary in order to determine who qualifies as a 'valued' customer where the value is at least determined by the amount of sales. It also would have been obvious to have evaluated the value and nature of item in a shopping cart since this would have been adopted for the intended use of determining which product the customer is about to order (Miloslavsky col. 12, lines 9-15 [quoted above]).

The Examiner provides no description of the context or application in which applets have been used in the past, provides *no* motivation why one of ordinary skill in the art would wish to perform pre-routing analysis of an electronic order on the customer's computer rather than on the vendor's computer, *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992) ("Before the PTO may combine the disclosures of two or more prior art references in order to establish *prima facie* obviousness, there must be some suggestion for doing so . . ."), and fails to address both the claimed use of the applet for collecting contact routing information and the specific order analysis steps being performed by the applet on the customer's computer, *In re Thrift*, 63 USPQ2d 2002, 2007 (Fed. Cir. 2002) (claims for speech interface incorporating grammar-creation features were improperly rejected on the ground that "the use of grammar is old and well-known in the art of speech recognition as a means of optimization that is highly desirable" since this statement generally addresses the use of grammar but fails to discuss unique claim limitations directed to extracting, modifying, or processing grammar to interact with hypermedia sources). *See also, In re Lee*, 61 USPQ2d (Fed. Cir. 2002) (it is improper to substitute the

“common knowledge” of one skilled in the art for specific evidence that the prior art suggests an invalidating combination of references).

Regarding the prior use of applets, the Examiner states simply that applets are old and well known “to ease the evaluation process.” What evaluation process? What is being evaluated? Is the evaluation process being performed in the context of a web-based contact center or in a completely unrelated application? According to the *Dictionary of Computing and Internet Terms*, by Downing, et al., (sixth edition), an applet is defined as:

1. a small application program that is inexpensive and designed to do a small, specific job. Most operating systems come with several applets, such as a calculator, a calendar, and a note editor.
2. an application program that is downloaded automatically through a World Wide Web browser and executed on the recipient’s machine. Applets are normally written in Java.

Which type of applet is the Examiner referring to in her official notice? The official notice describes applets so generally that it is unclear to which the Examiner is referring.

Regarding the combination of the Examiner’s official notice of applets with Miloslavsky, et al., Miloslavsky, et al., teaches away from such a combination. First, as noted above Miloslavsky, et al., teaches neither the use of item type or value in a customer order for agent selection. Second, Miloslavsky, et al., teaches that the SRP 1168 receive from the server the web page *as delivered* to the customer’s web browser *without* the customer’s changes or selections to that web page. To have an applet (as defined in (2) above) on the customer’s computer analyze the unchanged web page on the customer’s computer would be highly undesirable. It would make more sense to have the applet (as defined in (1) above) on the server’s computer analyze



the unaltered web page as it would require much less bandwidth over the Internet due to the reduced server/browser traffic.

Even if it were obvious to combine an applet as defined in (2) above with the Miloslavsky, et al., the resulting system would not be the claimed invention. The applet would analyze the web page *as delivered to the browser and not as altered by the customer* and provide this information to the server *for delivery to the agent*. The SRP itself, consistent with the teachings of Miloslavsky, et al., would not itself analyze the results as part of agent selection.

There is simply no motivation to modify the architecture of Miloslavsky et al. to include an applet to perform the alleged order analysis of Walker et al.

E. Miloslavsky, et al., Teaches Away from the Use of a Cookie to Contain Item Value and/or Type-Claims 50, 64, and 77.

Regarding the inclusion in a cookie of item value and/or type, the Examiner states:

Appellant argues that Miloslavsky doesn't teach including the item value and/or type in a cookie. The Examiner wants to point out that Miloslavsky teaches on col. 15, lines 50-59, using cookies to keep track of the documents associated . . . with the web page displayed by the customer, the web page containing the products value and item type.

(Examiner's Answer at pages 7-8.)

At col. 15, lines 50-59, Miloslavsky, et al., states:

Alternatively, the telephone number could have been previously stored in computer 1114 (e.g., in the form of a persistent client state information commonly called the "cookies" in Internet technical literature). Server 1132 then sends the telephone number and associated data (e.g., the identity of customer site 1104 and the HTML document associated with the web page displayed on browser 1116) to SRP 1168. SRP 1168 then requests service assistance center 1140 to call this telephone number and select an agent to talk with the user.

At col. 15, lines 50-59, Miloslavsky et al. does refer to “cookies” as a form of persistent client state information; however, Miloslavsky et al. says nothing about embedding or including contact request routing information in the cookie. Rather, Miloslavsky, et al., teaches that cookies contain the customer’s telephone number. This is consistent with the normally understood use of cookies, which are used by web sites “to recognize users who have previously visited them. The next time the user accesses that site, the information in the cookie is sent back to the site so the information displayed can vary depending on the user’s preferences. *Dictionary of Computer and Internet Terms* at page 106.

As can be seen from the above, the claimed invention uses cookies in a new and different way from that disclosed in Miloslavsky, et al., and *Dictionary of Computer and Internet Terms*; that is, the cookie is not used to store client-specific information and customer preferences, such as customer identification information (e.g., telephone number, Internet address, graphical user interface, etc.), but rather to store parameters descriptive of a client’s current order. Contrary to the Examiner’s assertions, such a use is far from obvious to one of ordinary skill in the art.

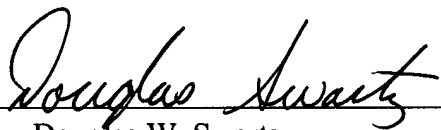
In short, the Examiner’s obviousness arguments ignore the clear teachings of the art and are nothing more than impermissible hindsight reconstruction of the claimed invention. It is well established that an examiner must forget about what he or she has been taught by the inventor about the claimed invention and cast his or her mind back to the time the invention was made to replicate the mind of one skilled in the art who is presented only with the references and not normally guided by the then-accepted wisdom in the art. *W.L. Gore & Assoc. v. Garlock, Inc.*, 721 F.2d 1540, 1553, 220 USPQ 303, 312-313 (Fed. Cir. 1983). One cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to depreciate the

claimed invention. *Symbol Technologies, Inc., v. Opticon, Inc.*, 935 F.2d 1569, 19 USPQ2d 1241 (Fed. Cir. 1991); *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). *See In re Fritch*, 922 F.2d 1260, 23 USPQ2d 1780 (Fed. Cir. 1992) (even if the prior art may be modified as suggested by the Examiner, the modification is not obvious unless the prior art suggests the desirability for the modification).

Based upon the foregoing, Appellant respectfully requests the Board to reverse the Examiner's §103 rejection of all pending claims and to pass the above-identified patent application to issuance.

Respectfully submitted,

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## **APPENDICES**

### **A. Claims Involved In The Appeal**

1-43. (Canceled)

44. (Previously Presented) A method, comprising:

(a) providing, on a first communication channel and as part of a first contact with a customer, the first contact being a potential sales transaction with the customer, at least one web page to a web browser associated with the customer, wherein the customer  
5 selects, for possible purchase, a set of one or more items from the provided at least one web page;

(b) receiving, from the customer and as part of the same sales transaction, a request for servicing by an agent of the contact center, wherein the servicing is to be effected by a second contact with the customer on a second communication channel  
10 different from the first communication channel;

(c) downloading, onto a computer executing the customer's web browser, an applet;

(d) evaluating at least one item in the set of one or more items to identify at least one of (i) an item value and (ii) item type in the set, wherein step(d) is performed by the  
15 applet when the applet is being executed by the customer's computer; and

(e) routing the request of the customer to an agent in the contact center, the agent being selected based, at least in part, on the identified at least one of (i) item value and (ii) item type, wherein the set of one or more items is a shopping cart, wish cart, and/or wish list.

45. (Previously Presented) The method of claim 44, wherein a first contact on the first communication channel is a Web browsing session, wherein the second contact on the second communication channel is one of a live voice communication, an electronic mail message, and a facsimile, wherein the second contact is an outgoing contact from the  
5 selected agent to the customer, and wherein part of the first and second contacts overlap temporally.

46. (Canceled)

47. (Previously Presented) The method of claim 45, wherein the request is an incoming communication from the customer and wherein the routing step is based, at least in part, on item value.

48. (Previously Presented) The method of claim 44, wherein the request is a request for an outgoing call from the contact center to the customer and wherein the routing step is based, at least in part, on item value.

49. (Previously Presented) The method of claim 44, wherein the request is associated with the customer's selection of an icon on the at least one web page and wherein the routing step is based, at least in part, on item type.

50. (Previously Presented) The method of claim 44, wherein the identified item value is contained in a cookie received from the customer's computer.

51. (Previously Presented) The method of Claim 44, further comprising:  
comparing the item value with a predetermined value to determine the agent destination of the routing step.

52. (Previously Presented) The method of Claim 44, wherein the selected routing destination is based, at least in part, on a type of item in the set and further comprising:

comparing the item type with a list of items to determine the agent destination of the routing step.

53. (Previously Presented) The method of claim 51, wherein the item value is

the highest value of an item in the set.

54. (Previously Presented) The method of claim 51, wherein the item value is the total value of the items in the set.

55. (Previously Presented) The method of claim 51, wherein the item value is the average value of the items in the set.

56. (Previously Presented) The method of claim 44, wherein the selected routing destination is based, at least in part, on both item type and value.

57. (Previously Presented) A computer readable medium comprising instructions for performing the steps of claim 44.

58. (Previously Presented) A system, comprising:

a server operable (a) to provide, on a first communication channel and as part of a first contact and a potential sales transaction with a customer, at least one web page to a web browser associated with the customer, wherein the customer selects, for possible acquisition, a set of one or more items from the provided at least one web page; and (b) receive, from the customer and as part of the same sales transaction, a request for servicing by an agent of the contact center, wherein the servicing is to be effected by a second contact with the customer on a second communication channel different from the first communication channel;

an evaluator operable to evaluate at least one item in the set of one or more items to identify at least one of (i) an item value and (ii) item type in the set; and

a router operable to route the request of the customer to an agent in the contact center, the agent being selected based, at least in part, on the identified at least one of (i) item value and (ii) item type, wherein the server is operable (c) to effect downloading, onto a computer executing the customer's web browser, an applet and wherein the applet

comprises the evaluator.

59. (Previously Presented) The system of claim 58, wherein the first communication channel is a Web browsing session, wherein the second contact is one of a live voice communication, an electronic mail message, and a facsimile, and wherein the first and second contacts occur simultaneously.

60. (Previously Presented) The system of claim 58, wherein the set of one or more items is a shopping cart, wish cart, and/or wish list.

61. (Previously Presented) The system of claim 59, wherein the request is an incoming communication from the customer and wherein the at least one of (i) item value and (ii) item type is item value.

62. (Previously Presented) The system of claim 58, wherein the request is a request for an outgoing call from the contact center to the customer and wherein the at least one of (i) item value and (ii) item type is item value.

63. (Previously Presented) The system of claim 58, wherein the request is associated with the customer's selection of an icon on the at least one web page and wherein the at least one of (i) item value and (ii) item type is item type.

64. (Previously Presented) The system of claim 60, wherein the identified item value is contained in a cookie received from the customer's computer..

65. (Previously Presented) The system of Claim 58, wherein the router is operable to compare the item value with a predetermined value to determine the request's routing destination.

66. (Previously Presented) The system of Claim 58, wherein the routing of the customer's request is based, at least in part, on a type of item in the set and wherein the router is operable to compare the item type with a list of items to determine the request's routing destination.

67. (Previously Presented) The system of claim 65, wherein the item value is the highest value of an item in the set.

68. (Previously Presented) The system of claim 65, wherein the item value is the total value of the items in the set.

69. (Previously Presented) The system of claim 65, wherein the item value is the average value of the items in the set.

70. (Previously Presented) The system of claim 44, wherein the routing of the customer's request is based, at least in part, on both item type and value.

71. (Previously Presented) A method for routing contacts in an E-commerce contact center, comprising:

(a) providing, on a first communication channel and as part of a potential sales transaction with a customer, at least one web page to a web browser associated with the customer, wherein the customer selects, for possible purchase, a set of one or more items from the provided at least one web page;

(b) receiving, from the customer and as part of the same sales transaction, a request for servicing by an agent of the contact center, wherein the servicing is to be effected on a second communication channel different from the first communication channel;

(c) downloading, onto a computer executing the customer's web browser, an applet comprising an evaluator;



(d) the downloaded evaluator evaluating at least one item in the set of one or more items to identify at least one of (i) a value of one or more items and (ii) a type of one or more items in the set;

(e) receiving from the downloaded evaluator an identified at least one of (i) a value of one or more items and (ii) a type of one or more items in the set;

(f) routing the request of the customer to an agent in the contact center, the agent being selected based, at least in part, on the identified at least one of (i) a value of one or more items and (ii) a type of one or more items in the set.

72. (Previously Presented) The method of claim 71, wherein the first communication channel is a Web browsing session, wherein the web browsing session is a first contact between the contact center and customer, wherein the second communication channel is used by a second contact between the contact center and customer, wherein the second contact is one of a live voice communication, an electronic mail message, and a facsimile, and wherein the first and second contacts occur concurrently.

73. (Previously Presented) The method of claim 71, wherein the set of one or more items is a shopping cart, wish cart, or wish list.

74. (Previously Presented) The method of claim 71, wherein the request is an incoming communication from the customer.

75. (Previously Presented) The method of claim 71, wherein the request is a request for an outgoing call from the contact center to the customer.

76. (Previously Presented) The method of claim 71, wherein the request is associated with the customer's selection of an icon on the at least one web page.

77. (Previously Presented) The method of claim 71, wherein the identified at least one of (i) a value of one or more items and (ii) a type of one or more items in the set is contained in a cookie received from the customer's computer.

78. (Previously Presented) The method of Claim 71, wherein the selected routing destination is based, at least in part, on (i) and further comprising:

comparing the item value with a predetermined value to determine the agent destination of the routing step.

79. (Previously Presented) The method of Claim 71, wherein the selected routing destination is based, at least in part, on (ii) and further comprising:

comparing the item type with a list of items to determine the agent destination of the routing step.

80. (Previously Presented) The method of claim 78, wherein the item value is the highest value of an item in the set.

81. (Previously Presented) The method of claim 78, wherein the item value is the total value of the items in the set.

82. (Previously Presented) The method of claim 78, wherein the item value is the average value of the items in the set.

83. (Previously Presented) The method of claim 71, wherein the selected routing destination is based, at least in part, on both (i) and (ii).

84. (Previously Presented) A computer readable medium comprising instructions for performing the steps of claim 71.

B. Evidence (None)

C. Related Proceedings (None)